

CENDI Copyright Working Group Meeting March 22, 2004 Government



Metadata for Government Rights Management

**Why care?
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Approved for Public Release

U.S. Government Work (17 USC §105) Not copyrighted in the U.S.



Information for the Defense Community



Department of Energy

Defense Technical Information Center

Environmental Protection Agency

National Aeronautics and Space Agency

National Archives and Records Administration

National Library of Agriculture

National Library of Education

National Library of Medicine

National Technical Information Service

**US Geological Survey/ Biological Resources
Division**

Copyrights and Government

CENDI Copyright FAQ

<http://www.dtic.mil/cendi/publications/00-3copyright.html>

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Frequently Asked Questions About Copyright

*A Template for the Promotion of Awareness
Among CENDI Agency Staff
CENDI/2000-3*

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Prepared by
CENDI Copyright Task Group

Compiled by
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Information International Associates, Inc.
Oak Ridge, Tennessee
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Purpose and Use of This Document

Copyrights and Government

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Government Information Management

- **E-Government Act of 2002** Public Law 107-34, 17 Dec 2002
 - Title II--Federal Management and Promotion of Electronic Government Services.
- **OMB Interagency Committee on Government Information (ICGI)**
 - Electronic Records Policy Working Group (ERPWG)
 - Web Content Standards Working Group
 - Taxonomy Working Group

Copyrights and Government

Real Life Examples

- **Collection Digitization Projects**

Contracter Librarian at Vandenberg AFB Technical Library is tasked by her military manager to digitize her entire collection which includes 32,000 cataloged items plus several thousand uncataloged maps and documents from many government agencies. She plans to start with DTIC documents. Are there any copyright restrictions?

- **Repurposing**

Penn State University, in partnership with Lockheed Martin, is producing a training course under DOD contract about Joint Vision 2020, the Joint Chiefs roadmap for the future structure and integrated operations of DOD. Penn State wants to incorporate elements of a PPT briefing found on a DTIC website. The work has no notice; can they use it?

Copyrights and Government

Real Life Examples

- **Reuse**

A Navy activity wants to republish elements of a DoD product that is hosted on DTIC's server. The DoD product preface acknowledges publishers & individuals whose materials were used with permission. However, there is no notice of authorship for the elements that Navy wants to use. What's the copyright status?

- **Reproduction**

DTIC receives a Course Copyright Reprint Permission Request from the National Defense University asking to reproduce for classroom use several documents obtained from DTIC. All the documents are papers by War College students. Will DTIC grant permission?

Copyrights and Government

Real Life Examples

- **Republishing**

A nonprofit association wants to republish two public release documents obtained from DTIC. One is from NATO Research Technology Organization. The other is a 1972 National Air Intelligence Center translation of a 1950 Russian technical report. What's the copyright status?

- **Preservation**

A DoD contractor prepares a document which includes pre-existing copyrighted materials used with permission. Permissions vary from one author/publisher to the next with the most restrictive being 1 print run of up to 100 copies to be completed by a specified date. The contractor advises the DoD sponsor not to reproduce or send the document to the DTIC repository.

Copyrights and Government

Real Life Examples

- **Copyright Material Incorporated Into a Government Work**

On the advice of the senior editor of the 10 volume Textbook of Military Medicine, DTIC did not scan the paper edition into its repository. This government work contains some copyrighted material (plates, tables, graphs, text). Permissions vary as noted. Some only allow the material to be used in the published paper version; there are no further reproduction or electronic rights. As the editor has time, she is putting the textbooks online. It's very labor intensive because she must manually block/cover the copyrighted material so that it does not display and leave a placeholder reference to what appears in the print version. http://www.bordeninstitute.army.mil/default_index.htm

Copyrights and Government

U.S. Government Work using copyrighted material

Military Dermatology - Textbook of Military Medicine Chapter 1, p.9 <http://www.vnh.org/MilitaryDerm/Ch1.pdf>

Fig 1-5 is not shown because the copyright permission granted to the Borden Institute, TMM, does not allow the Borden Institute to grant permission to other users and/or does not include usage in electronic media. The current user must apply to the publisher named in the figure legend for permission to use this illustration in any type of publication media.

Fig. 1-5. Papules, nodules, and tumors are palpable skin lesions of varying size. Papules are less than 0.5 cm in diameter, nodules larger. Tumors are very large growths. Reprinted from the AAD Library of Teaching Slides with permission from the American Academy of Dermatology.

Fig 1-7 is not shown because the copyright permission granted to the Borden Institute, TMM, does not allow the Borden Institute to grant permission to other users and/or does not include usage in electronic media. The current user must apply to the publisher named in the figure legend for permission to use this illustration in any type of publication media.

Fig. 1-7. Wheal. Edema causes a transient papule or plaque to occur. Reprinted from the AAD Library of Teaching Slides with permission from the American Academy of Dermatology.

Copyrights and Government

US Government Works **Using copyrighted material**

- **Assignment (all rights transferred) vs. license (a transfer of less than complete ownership)**
 - e.g. to prepare a musical recording you may need: public performance rights, sound recording rights, synchronization rights, mechanical rights
- **Platforms/formats**
- **Geographic territories**
- **Duration**
- **Warranties, indemnities**
- **1-time only, multiple uses, revisions**

Copyrights and Government

Real Life Examples

- **Citizen Use of Government Information**

Two Federally Funded Research and Development Centers (FFRDCs) notify DTIC that a commercial company has harvested citations (verbatim including abbreviations and typos) and full-text documents from DTIC's Public Technical Reports database. They are offering the documents for sale via their commercial website and through Amazon.com. This infringes the FFRDCs copyrights. What is DTIC going to do about it?

Copyrights and Government

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Government Information Management

- Information as an asset

OMB Circular A-130 Management of Federal Information Resources

<http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html>

- created by the organization (employees)
- created for the organization (contractors & grantees)
- for which the organization has stewardship

- Records management

National Archives and Records Administration

<http://www.nara.gov>

- guards the legal and financial rights of the government and citizens
- preserves records of archival value for future generations

Copyrights and Government

U.S. Government Information Public Release Considerations

- What you can share
 - **with the public**
 - **within government**
 - **within the agency**
- Depends on
 - **statutory limitations**
 - **public release policy**
 - **intellectual property rights**

Copyrights and Government

U.S. Government Information Dissemination Factors *in priority order*

- 1st Factor Classification
- 2nd Factor Distribution Limitation
- 3rd Factor Copyrights
- 4th Factor Government Rights

Copyrights and Government

U.S. Government Information

Copyright Factor

- Separate and distinct from other markings
- Applies to unclassified and classified works
- Not a reason for nondisclosure
- External constraint on reproduction and dissemination

Copyrights and Government

Government Information Copyright Management

- Who's the author of the work?
- Who's the owner of the work?
- Who has what rights to the work?
 - Under Copyright Law
 - Under Contract Law

Copyrights and Government

Copyright Basics -- Definition

- Protection provided by law to the authors of “original works of authorship”
 - e.g. , Text, images, recordings, photographs, films, software
 - Minimum amount of creativity
 - Covers published and unpublished works
 - Automatic; no registration or notice required since 1989
 - Expression only; not ideas, facts, processes
- “Fixed” in a tangible medium
 - Now known or later developed from which they can be perceived...either directly or with the aid of a machine or device.

Copyrights and Government

~~Private~~

Copyright Basics **Exclusive Bundle of Five Rights**

- Reproduce
- Distribute
- Adapt
- Perform
- Display

Copyrights and Government

U.S. Government Works

Public release does not equal public domain

- Government Info
 - Definition
 - OMB-A130
 - Title 44 USC §1901
 - **Broad scope**
 - **May be copyrighted**
 - Contractor/Grantee
 - Pre-existing or commercial copyright
 - Assignment
- Government Works
 - Definition:
 - Title 17 USC §101, § 105
 - **Narrow scope**
 - **Not copyrighted**
 - Public domain in U.S.

Copyrights and Government

U.S. Government Works

***Myth:* Information published by or sponsored by the U.S. Government is public domain**

- **15% of the products surveyed are not in the public domain, for all or part of the product.**

***GPO Report on the Assessment of Electronic Government Information Products**, 1999. http://www.access.gpo.gov/su_docs/nclisassement/report.html

- **The true size of government is growing; the federal civil service is not the source of growth.**

***Fact Sheet on the New True Size of Government** by Paul C. Light, Brookings Institution, Nov 03. <http://www.brookings.edu/gs/cps/light20030905.htm>

- **1990: 40% federal; 60% contractors/grantees**
- **2002: 33% federal; 67% contractors/grantees**

Copyrights and Government

defenseink.mil

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- [Air Force Link News](#)
...domain and do not require **copyright** release. Please credit all photos to U.S. Air...
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- [Army Management Staff College](#)
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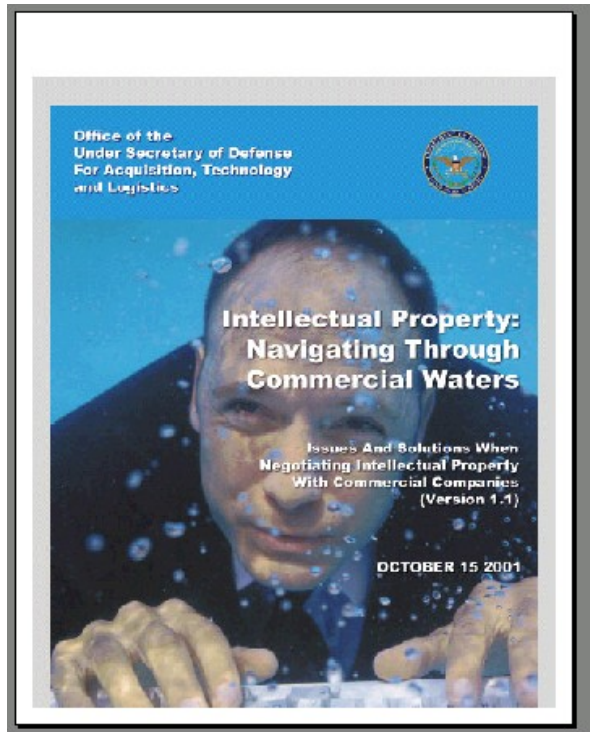
U.S. Government Works Element of Copyright Uncertainty

- Government practice is not to provide notice for Government Works
 - **Unless otherwise stated (*in absence of a notice*), assume not copyrighted.**
- Contradicts US Copyright Law
 - **Pre-Berne (before 1989)**
No notice default-- assume not copyrighted.
 - **Post-Berne (after 1989)**
No notice default -- assume copyrighted!

Copyrights and Government

DoD IP Guidance

<http://www.acq.osd.mil/ar/doc/intelprop.pdf>



Intellectual Property:
Navigating Through
Commercial Waters,
Issues & Solutions When Negotiating
Intellectual Property With
Commercial Companies.

Updated October 2001

Copyrights and Government

Government Contracted Works Data rights matrix

Table 2-2. *Rights¹ in Noncommercial Computer Software (CS) and Technical Data (TD) Covering Noncommercial Items*

Rights Category ²	Applicable to TD or CS?	Criteria for Applying Rights Category	Permitted Uses within Government	Permitted Uses outside Government ³
Unlimited Rights (UR)	Both TD and CS	Development exclusively at Government expense; ⁴ also any deliverable of certain types—regardless of funding. ⁵	Unlimited; no restrictions.	
Government Purpose Rights (GPR)	Both TD and CS	Development with mixed funding. ⁴	Unlimited; no restrictions.	Only for "Government purposes"; no commercial use.
Limited Rights (LR)	TD only	Development exclusively at private expense.	Unlimited, except may not be used for manufacture	Emergency repair/overhaul; evaluation by foreign government.
Restricted Rights (RR)	CS only	Development ¹ exclusively at private expense.	Only one computer at a time; minimum backup copies; modification.	Emergency repair/overhaul; certain service/maintenance contracts.
Prior Government Rights	Both TD and CS	Whenever Government has previously acquired rights in the deliverable TD/CS	Same as under the previous contract.	
Specifically Negotiated License Rights (SNLR)	Both TD and CS	Mutual agreement of the parties; use whenever the standard rights categories do not meet both parties' needs	As negotiated by the parties; however, must not be less than LR in TD, and must not be less than RR in CS. ⁶	

Notes:

1. **Critical Need to Specify Deliverables.** The standard clauses address rights but do not include delivery requirements. The contract must explicitly specify the content, format, and delivery medium for all IP deliverables that are necessary to meet DoD's needs. For TD, it is necessary to specify the level of detail and requirements for delivery in preferred electronic/digital formats. For CS, it is critical to specify requirements for both the executable code and the source code.

2. **Mandatory Listing Requirements.** All TD and CS to be delivered with less than UR must be identified in a list attached to the contract. Pre-award listing requirements are specified at DFARS 252.227-7017; post-award requirements are at DFARS 252.227-7013(e) and -7014(e).

3. **Release Procedures/Restrictions.** All authorized third-party recipients of TD/CS with other than UR must either sign the standard NDA from DFARS 227-7103-7 or receive the TD/CS under a contract containing DFARS 252.227-7025. Additional notice requirements exist for releases of LR data or RR software.

4. **Source of Development Funding—at the "Lowest Practicable Level."** For TD, the determination is based on the funding for the development of the item, component, or process.

Copyrights and Government

Government Contracted Works

Types of data rights

- Assignment (Special Works)
- Unlimited
- Government Purpose
- Federal Purpose (Grants)
- Limited
- Restricted
- Specifically Negotiated
- SBIR (Small Business Innovation Research)
- Commercial

Copyrights and Government

Government Contracted Works Government Rights Notice

Copyright Notice

Los Alamos
NATIONAL LABORATORY

science serving society
Lab home | phone | search

Copyright Notice

For Scientific and Technical Information Only

Copyright © 1998-2002 The Regents of the University of California.

Contract #

Government Rights

For All Information

Unless otherwise indicated, this information has been authored by an employee or employees of the University of California, operator of the Los Alamos National Laboratory under Contract No.

W-7405-ENG-36 with the U.S. Department of Energy. The U.S.

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Other permitted uses

Copyrights and Government

Government Contracted Works Assignment

- **Special Works clause**
 - **Government owns the copyright**
Work not in the public domain
- **Notice**
**© (Year) United States Government as represented by
the Secretary of (Department). All rights reserved.**
- Manz, Paul C., et al. "Protecting Government Works: The Copyright Issue.
Acquisition Review Quarterly. Winter 2002. Defense Acquisition University,
Ft. Belvoir, VA.
<http://www.dau.mil/pubs/arq/2002arq/Manz.pdf>

Copyrights and Government

Government Contracted Works Assignment

http://www.usaac.army.mil/sod/resource.htm



UNITED STATES ARMY ACCESSIONS COMMAND

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This section is devoted to all your advertising resources. It is divided into:

- Guidance - for Branding Guideline such as Brand Manual, Poster Guidance, Army Style Guide, and other documents about proper use of the Army Brand.
- Logos - Different logos and tag lines for your use.
- Print Ads - Samples of Print Ads
- TV Ads - Quicktime movies of all current TV ads
- Resource Links - Links to other sites and/or pages to you with use of the Army Brand.

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Copyrights and Government

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Helping the user determine copyright Preparing for Future Digital Rights Management

- Determine author and owner
 - **at the time of creation or acquisition**
 - **no later than review for public release**
- Document copyright and government rights
 - **Notice**
 - **Terms & Conditions of Use**
- Mark it
 - **in the front matter of the information/object**
 - **in its metadata**